

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 545

(Senator Conway, *et al.*) (By Request - Baltimore City Administration)

Judicial Proceedings

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**Baltimore City - Law Enforcement Officers' Bill of Rights - Hearing Board**

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This bill excludes Baltimore City from provisions of the Law Enforcement Officers' Bill of Rights (LEOBR) authorizing an alternative method for forming a hearing board for an administrative action when the alternative method has been agreed to under a specified exclusive collective bargaining agreement. In addition, the bill excludes Baltimore City from provisions of LEOBR requiring that the disposition of an administrative action is final if a law enforcement agency or the agency's superior governmental authority has agreed with a specified exclusive collective bargaining representative that the decision is final.

The bill's provisions apply prospectively and may not be applied or interpreted to have any effect on or application to an exclusive bargaining agreement in effect before the bill's October 1, 2017 effective date.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** None. The change is procedural and does not directly affect governmental finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends

to police officers of 26 specified State and local agencies. It does not grant collective bargaining rights. The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal must be conducted in accordance with LEOBR.

If the investigation or interrogation of a law enforcement officer results in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, the law enforcement officer is entitled to a hearing on the issues by a hearing board to contest the law enforcement agency's action. The hearing board process is bifurcated. First, the board meets to determine guilt. If the officer is found guilty of the charges, a second hearing is held to determine the level of discipline. A law enforcement officer who has been convicted of a felony is not entitled to a hearing.

The law enforcement agency must give notice to the law enforcement officer of the right to a hearing by a hearing board, which includes the time and place of the hearing and the issues involved.

Hearing boards for LEOBR purposes must consist of at least three voting members who (1) are appointed by the chief of the law enforcement agency and chosen from law enforcement officers within that law enforcement agency, or from law enforcement officers of another law enforcement agency with the approval of the chief of the other agency, and (2) have had no part in the investigation or interrogation of the law enforcement officer. At least one member of the hearing board must be of the same rank as the law enforcement officer against whom the complaint is filed.

Chapter 519 of 2016 authorizes the chief to appoint, as a nonvoting member, one member of the public who has received training by the Maryland Police Training and Standards Commission (MPTSC) on LEOBR and matters relating to police procedures. If authorized by local law or collectively bargained, the hearing board may include up to two nonvoting or voting members of the public who have received training by MPTSC on LEOBR and matters relating to police procedures.

If the chief is the law enforcement officer under investigation, the chief of another law enforcement agency in the State must function as the law enforcement officer of the same rank on the hearing board. If the chief of a State law enforcement agency is under investigation, the Governor must appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board. If the chief of a law enforcement agency of a county or municipality is under investigation, the official authorized to appoint the chief's successor must appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board. If the chief of a State law enforcement agency or the chief of a law enforcement agency of a county or municipality is under investigation, the official

authorized to appoint the chief's successor, or that official's designee, must function as the chief for LEOBR purposes.

A law enforcement agency or the agency's superior governmental authority that has recognized and certified an exclusive collective bargaining representative may negotiate with the representative an alternative method of forming a hearing board that, if authorized by local law, is subject to binding arbitration. A hearing board formed through the alternative method may also include up to two voting or nonvoting members of the public, appointed by the chief, who have received training administered by MPTSC on LEOBR and matters relating to police procedures.

A law enforcement officer may elect the alternative method of forming a hearing board if the officer works in a law enforcement agency that has negotiated with a collective bargaining unit for an alternative method of forming a hearing board and the law enforcement officer is included in the collective bargaining unit. The law enforcement agency must notify the law enforcement officer in writing before a hearing board is formed that the law enforcement officer may elect an alternative method of forming a hearing board if one has been negotiated.

If the law enforcement officer elects the alternative method, that method must be used to form the hearing board. An agency or exclusive collective bargaining representative may not require a law enforcement officer to elect an alternative method of forming a hearing board. If the law enforcement officer has been offered summary punishment, an alternative method of forming a hearing board may not be used.

The decision of the hearing board as to findings of fact and any penalty is final if (1) a chief is an eyewitness to the incident or (2) a law enforcement agency or the agency's superior governmental authority has agreed with an exclusive collective bargaining representative that the decision is final. The decision of the hearing board may then be appealed. Within 30 days after receipt of the recommendations of the hearing board, the chief must review the findings, conclusions, and recommendations of the hearing board and issue a final order. The final order may be appealed.

**Background:** Although the Baltimore City Police Department is a State agency, the State does not control the appointment or removal of the police commissioner and is not responsible for providing funding for the operations of the police department. However, the State retains the ability to amend the law relating to the department in order to implement policy changes.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1023 (Delegate Anderson)(By Request - Baltimore City Administration)  
- Judiciary.

**Information Source(s):** Baltimore City; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2017  
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